

**CITY OF MORGAN HILL
JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL
REDEVELOPMENT AGENCY MEETING
MINUTES - OCTOBER 2, 2002**

CALL TO ORDER

Mayor/Chairperson Kennedy called the meeting to order at 6:33 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Sellers, Tate; and Mayor/Chairman Kennedy
Late: Council/Agency Member Chang (arrived at 6:45 p.m.)
Absent: Mayor Pro Tempore/Agency Carr

DECLARATION OF POSTING OF AGENDA

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

City Council Action and Redevelopment Agency Action

OPPORTUNITY FOR PUBLIC COMMENT

CLOSED SESSION:

City Attorney/Agency Counsel Leichter announced the below listed closed session items.

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Significant Exposure/Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 2

2.

CONFERENCE WITH LEGAL COUNSEL - POTENTIAL AND EXISTING LITIGATION:

CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Legal Authority: Government Code 54956.8 & 54956.9(a) & (c) (1 potential case)

Real Property(ies) involved: APN 728-31-007 & 008; 25.50 acres located on the southwesterly side of Cochrane Road (St. Louise Hospital property)

City Negotiators: Agency Members; Executive Director; Agency Counsel; F. Gale Conner, special counsel; Rutan & Tucker, special counsel

Case Name: San Jose Christian College v. City of Morgan Hill

Case Numbers: Ninth Circuit Court of Appeal No. 02-15693

Closed Session Topic: Potential Existing Litigation/Real Estate Negotiations

3.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Legal Authority: Government Code Section 54956.8

Property: APN 817-29-004, 605 Tennant Avenue, 439 sq ft

Negotiating Parties: For Property Owners: John Lincoln, Jr, Trustee of the John Lincoln Jr. Trust; Robert E. Lincoln; John S. Lincoln

Under Negotiation: For City: Richard Hoffman; Jim Ashcraft; F. Gale Connor
Price and Terms of Payment

4.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Legal Authority: Government Code Section 54956.8
Property: APN 817-08-026, 740 Tennant Avenue, 23,250 sq ft
Negotiating Parties: For Property Owners: Arthur A. & Susan A. Biederman
For City: Richard Hoffman; Jim Ashcraft; F. Gale Connor
Under Negotiation: Price and Terms of Payment

5.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Legal Authority: Government Code Section 54956.8
Property: APN 817-58-009, 16550 Railroad Avenue, 22,146 sq ft
Negotiating Parties: For Property Owners: Dieter Folk; Steven P. Belzer
For City: Richard Hoffman; Jim Ashcraft; F. Gale Connor
Under Negotiation: Price and Terms of Payment

6.

CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Legal Authority: Government Code Section 54956.8
Property: APN 817-59-006, 16610 Cory Lane, 303 sq ft
Negotiating Parties: For Property Owners: Gary and Donita R. Cupps
For City: Richard Hoffman; Jim Ashcraft; F. Gale Connor
Under Negotiation: Price and Terms of Payment

OPPORTUNITY FOR PUBLIC COMMENT

Mayor/Chairman Kennedy opened the closed session items to public comment. No comments were offered.

ADJOURN TO CLOSED SESSION

Mayor/Chairman Kennedy adjourned the meeting to closed session at 6:35 p.m.

RECONVENE

Mayor/Chairman Kennedy reconvened the meeting at 7:04 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Leichter announced that there were no reportable actions taken in closed sessions.

SILENT INVOCATION

Mayor Kennedy requested that individuals whose lives have been affected by the fires that occurred last week be remembered, noting that many have lost their homes and their valuable belongings.

PLEDGE OF ALLEGIANCE

At the invitation of Mayor/Chairman Kennedy, Dennis Pinion led the Pledge of Allegiance.

INTRODUCTION

Recreation and Community Services Manager Spier introduced recently hired Deborah Boss, *Event Coordinator*

PROCLAMATION

Mayor Kennedy presented Lisa Ramos, Community Solutions, with a Proclamation recognizing October 2002 as *Domestic Violence Awareness Month*.

Lisa Ramos, Programs Specialist for the Solutions to Violence Program through Community Solutions, indicated that the two basic parts of the domestic violence program are interventions through La Isla Pacifica and prevention, bringing domestic violence awareness to the community.

CITY COUNCIL REPORT

Mayor Pro Tempore Carr's report was deferred to a future meeting date.

CITY MANAGER'S REPORT

City Manager Tewes stated that earlier this week, he had the opportunity to attend the annual conference of the International City and County Management Association. He said that there were many useful sessions but that some of the more interesting sessions related to home land security issues. He found one session to be of interest that was the session relating to Arlington County who took over the responsibility for emergency response at the Pentagon on September 11, 2001. He indicated that Arlington County had agencies from a 100-mile radius responding and assisting the Pentagon. It was also stated that it is important to make sure that technology, particularly radio communications, are brought up to date. It was indicated that Arlington spent a lot of time and money on a radio interoperability project so that radios from one agency to another can interact during emergencies. He informed the Council that Santa Clara County is in the middle of planning a radio interoperability project and that it is staff's intention to give the Council a full report in the near future. This would allow the Council to have a better appreciation of the complexity and to let it know what steps would be taken to make sure that in the event of a major emergency, the City is in a position to respond and effectively communicate with other agencies.

Council Member Tate indicated that at yesterday's Emergency Planning Council meeting, the Council approved grant funding that would pay for approximately 60% of this system.

CITY ATTORNEY'S REPORT

City Manager Leichter stated that she did not have a report to present this evening.

OTHER REPORTS

PUBLIC COMMENT

Council Member Tate indicated that the City has established a community committee entitled Youth Empowered for Success (YES). He said that this is a committee that is trying to carry forward the objectives of empowering youths to succeed by giving them assets, ones that will allow youth to learn better, have them respect the community and the community to respect them in return. He said that the committee is looking at implementing various items to communicate better between adults and youths to solve some of the problems raised by youth. He indicated that the committee spent a great deal of time last year going out to the schools and talking to various youths to find out what things need be done. The committee would like to start implementing some of the suggestions received. He stated that the committee needs youth to become involved with the committee to discuss ideas and to make them a part of the structure of the committee. He indicated that the committee meets on the second and fourth Tuesdays of every month at 4:00 p.m. in the Villas Conference room.

Mayor Kennedy presented Dennis Pinion with a Certificate of Appreciation for his years of serve to the City and the community as a Planning Commissioner and Mobile Home Rent Commissioner. He indicated that whenever there is a need for assistance, Mr. Pinion was available to help out.

Mayor Kennedy indicated that day workers congregate on Main Avenue, near the railroad tracks and downtown Morgan Hill. He said that a committee of volunteers and Council members are actively working to help address some of the issues and concerns that day workers face. He stated that many groups, churches and volunteers in the community are working toward building a dignified facility for day workers to attain employment. He stated that Council Member Chang is the working chairperson and that he is co-chairing this work with her. He indicated that a fundraising event will be held on October 12 at St. Catherine's parish hall. He encouraged members of the community to help in this effort.

Mayor Kennedy addressed the fire fighters who professionally handled the Croy fire. He read a draft thank you letter that he proposes to send to the many different agencies who responded to the Croy fire. He requested that each council member sign the letter.

Robert Benich addressed Goal 12H of the General Plan Policy document adopted in July 2001 which reads: "Encourage installation of public art in new and renovated non residential projects." He said that if RDA funds are going to be used for the Morgan Hill aquatics center, it was his belief that it was incumbent of the Council to budget for a public art project as part of this community facility. He recommended that the Council allocate a portion of each building fund to be used for the corresponding public art associated with all new public projects. He further requested that the Council advise the Santa Clara County Board of Supervisors that some form of public art should be a part of the new Morgan Hill-County Courthouse. He felt that art and architecture go hand in hand and that the integration of a building's design and structure with works of arts could benefit the entire community and provide enjoyment and inspiration for both residents and visitors. He felt that the time has come to appoint a Morgan Hill Art Commission whose responsibilities would be as follows: 1) establish a criteria for art to be associated with each new community facility according to the particular building or buildings to be constructed; 2) solicit bids from prospective artist according

to guidelines of subject matter, fixed costs, proposed schedule and completion date for the project, including final installation; and 3) review proposals from artists and forward recommendation to the City Council for its final review and approval. He felt that the Commission should be composed of members of city government, professionals in various fields of art, educators and members of the public. He requested that the Council move forward with due diligence and implement goal 12H of the General Plan.

Council Member Sellers indicated that he would be requesting that public arts be agendaized for a future Council meeting.

No further comments were offered.

City Council Action

CONSENT CALENDAR:

Mayor Kennedy requested that item 3 and 5 be removed from the Consent Calendar.

Action: *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council, on a 4-0 vote with Mayor Pro Tempore Carr absent, approved consent calendar items 1, 2 and 4 as follows:*

1. WAIVE READING OF ORDINANCE NO. 1584, NEW SERIES

Action: ***Approved** and **Waived** the Reading of Ordinance No. 1584, New Series and Declare that Said Title, which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived. Title as follows: An Ordinance of the City Council of the City of Morgan Hill Amending Section 17.50.094 (Imposition of Development Fees) of Chapter 17.50 (Vesting Tentative Maps) of Title 17 (Subdivisions) of the Municipal Code of the City of Morgan Hill Regarding Payment of Development Impact Fees.*

2. PROCLAMATION FOR LAWSUIT ABUSE AWARENESS WEEK

Action: ***Approved** Proclamation Proclaiming September 20 - October 2, 2002 as Lawsuit Abuse Awareness Week.*

4. APPROVE PURCHASE ORDERS FOR THE FURNISHINGS, FIXTURES AND EQUIPMENT (FF&E) AT THE COMMUNITY AND CULTURAL CENTER

Actions: *1) **Authorized** the City Manager to Approve a Purchase Order in the Amount of \$340,044 with Office Products and Interiors (OPI) for Furnishings, Fixtures and Equipment (FF&E) at the Community & Cultural Center; and 2) **Authorized** the City Manager to Approve a Purchase Order in the Amount of \$26,477 with Ceitronics for Voice and Data Cabling at the Community & Cultural Center.*

3. MURPHY AVENUE CORRIDOR STUDY – AMENDMENT OF SCOPE OF WORK AND BUDGET

Mayor Kennedy noted that the Council discussed the inclusion of traffic calming as part of the Murphy Avenue Corridor study.

City Manager Tewes informed the Council that the City is under a separate contract for a traffic calming study which has two aims in mind: 1) to give the City a general strategy for how traffic calming devices and techniques might be used in the community; and 2) to look at the traffic calming issues in Jackson Oaks. He said that the Murphy Corridor study is a planning study that would determine how the City can best meet the General Plan's goals of accommodating a significant increase of traffic in a corridor that is constrained by existing land uses and other factors.

Mayor Kennedy referred to page 14, paragraph 2 of the Fehr and Peers' scope of work that reads: "Fehr and Peers will prepare a conceptual design of the Condit/St. Louis roadway connection using a design speed such as the 40 miles per hour design speed which would equate to a 35 mph posted speed limit." He expressed concern with the proposed speed limit in a residential area. He inquired if the speed limit would be left open ended or whether the City has to establish a design speed?

Director of Community Development Bischoff indicated that Condit Road is not located in a residential area and that there are industrial or commercial land uses on either side of the area being studied. He indicated that the existing residential homes are non conforming uses. He said that one of the things that the City is looking at with this study is alternative means of moving the traffic volumes in a north/south manner, parallel to Highway 101, on the east side. The alternative being looked at suggests that Condit Road becomes a four-lane arterial as an alternative to meet this design speed.

Mayor Kennedy noted that the City has a new north/south arterial in Butterfield Boulevard and that it is designed for a higher speed of traffic. If the City has high speed arterials going through the community, they tend to bisect neighborhoods and communities. He requested that staff consider this concern as the City reviews the report.

Mr. Bischoff informed the Council that staff has a meeting scheduled with the consultant and the representatives from public works on Monday and that techniques that would address Mayor Kennedy's concern would be reviewed.

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council, on a 4-0 vote with Mayor Pro Tempore Carr absent, **Authorized** the City Manager to Amend the Consultant Services Agreement with Fehr and Peers Associates, for the Murphy Avenue Corridor Study, to Incorporate a Revised Scope of Work and Budget Increase of \$36,540, Subject to City Attorney Approval.*

CONSENT CALENDAR:

Council Member Chang and Sellers indicated that they both need to recuse themselves from agenda item 5. As Mayor Pro Tempore Carr was absent, the Council invoked the "Rule of Necessity." On the flip of a coin, Council Member Chang would be participating with regard to agenda item 5. Council Member Sellers recused himself from agenda item 5.

Action: *On a motion by Council Member Tate and seconded by Mayor Kennedy, the City Council, on a 3-0 vote with Council Member Sellers recusing himself and Mayor Pro Tempore Carr absent, **approved** Consent Calendar item 5 as follows:*

5. ACCEPTANCE OF MONTEREY/KEYSTONE SEWER AND WATER REPLACEMENT PROJECT

Actions: 1) **Accepted** as Complete the Monterey/Keystone Sewer and Water Replacement Project in the Final Amount of \$292,715.21; and 2) **Directed** the City Clerk to File the Notice of Completion with the County Recorder's Office.

Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Agency Member Tate and seconded by Vice-chairperson Chang, the Agency Board, on a 4-0 vote with Agency Member Carr absent, **Approved** Consent Calendar item 6 as follows:*

6. APPROVAL OF MORGAN HILL UNIFIED SCHOOL DISTRICT (MHUSD) REQUEST TO USE A PORTION OF BUTTERFIELD CHANNEL FOR STORM DRAINAGE RETENTION FROM EL TORO SCHOOL

Action: **Approved** Request and **Authorized** the Executive Director to Execute Letter Transferring Storm Drain Retention Capacity in Butterfield Channel.

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Action: *On a motion by Council/Agency Member Tate and seconded by Council Member/Vice-chairperson Chang, the City Council/Agency Board, on a 4-0 vote with Mayor Pro Tempore/Agency Member Carr absent, **Approved** Consent Calendar items 7-9 as follows:*

7. CARRYOVER OF ENCUMBRANCES

Action: **Accepted** and **Filed** Report.

8. RE-BUDGETING CARRYOVER 2001/02 PROJECTS

Action: Approved the Budget Scorecard Forms Re-budgeting 2001/02 Project Costs in the 2002/03 Fiscal Year.

9. SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF SEPTEMBER 18, 2002

Action: Approved the minutes as submitted.

City Council Action

OTHER BUSINESS:

10. URBAN LIMIT LINE (GREENBELT) STUDY WORK PROGRAM

Director of Community Development Bischoff presented the staff report and informed the Council that the scope of work for the urban limit line would involve staff working with a consultant and a citizen advisory committee to look at land uses and try to identify long term (40-50 years) of land use needs. Working with the consultant, staff would identify sensitive areas that should be preserved for open space that would otherwise be problematic to develop. Staff would also be looking at environmental review. He noted that there were a number of policies in the General Plan that request that the City look at very specific areas or issues in conjunction with the greenbelt study. One of these policies has to do with the area located east of the freeway, south of Tennant Avenue, looking at the area for its viability for industrial use. In addition, staff will be looking at the property just west of Community Park. He informed the Council that County staff has reviewed the work plan and has worked closely with staff toward its development. Staff has discussed the work plan with Santa Clara County Board of Supervisor Gage who is supportive of it. He requested that the Council authorize staff to initiate a consultant selection process for this project and to approve the scope of work. He said that based upon input by the Council this evening or from other groups later, the scope of work could be modified.

Council Member Tate referred to page 133 (page 3 of the report) that states "assessment of future land use needs." He noted that the City completed a General Plan update and that the Council fixed what the urban needs would be for commercial and industrial and that upon completion of urban needs, the City would conduct a greenbelt study. He felt that it is being implied that the City review its urban needs again and incorporate it into the greenbelt study. He inquired why urban needs are being reviewed again?

Mr. Bischoff responded that areas in the City's urban growth boundary define the lands that the City would need for development over the next 20 years. He said that it was his understanding that the City would talk about a permanent boundary beyond which the City would grow. It is staff's understanding that this would occur sometime and that the City would need to ensure that it has land available, sufficient to grow over a period of time beyond 2020. He stated that the City would be able to define the greenbelt anywhere outside the urban growth boundary. Staff felt that the City should look longer into the future to try to determine what the future needs would be in order to provide for additional growth of the City.

Council Member Tate felt that the study would be similar to performing another General Plan update.

Mr. Bischoff indicated that staff is not recommending that properties be designated for industrial or commercial uses, but rather determine an order of magnitude that between 2020 and 2050 the City needs an additional 3,000 acres of area for development. He stated that the City could look at environmental constraints where growth would best occur and then plan for an additional 3,000 acres.

Council Member Tate expressed concern that the Council would be defining a greenbelt and that at the next general plan update, the City would be limited because a greenbelt is in place.

Mayor Kennedy noted that the City of San Jose city limits abuts Morgan Hill's city limits. He further noted that the City of San Jose has established a greenbelt and that City staff has worked with them on the Coyote Greenbelt plan. He felt that the City has a basis of an agreement. He inquired if there were any documents of understanding in place that would provide some certainty that this space does not get developed? He felt that the City needs to ensure that staff works with the San Martin Planning Advisory Committee, the City of San Jose and Santa Clara County so that the greenbelt adopted by the City works together with theirs. He recommended that the City place mechanisms in place that would provide a long term certainty that the greenbelt areas to remain greenbelts such as using Open Space Authority funds. He felt that these funds can be earmarked for such things as acquiring open space land or acquiring agricultural conservation easements. He wanted to make sure that all of these issues are part of the study.

Mr. Bischoff indicated that it was staff's intent to have a technical advisory committee assisting staff with the greenbelt study. He said that staff would be working closely with County staff, noting that San Martin is governed by the County. Therefore, staff would propose that it work with the County and whatever processes they feel are appropriate. If the County feels that it is appropriate to consult with the San Martin Planning group, staff would do so. With respect to the City of San Jose, he indicated that the City requested participation on the Policy Committee for the Coyote Valley planning initiative being undertaken. The City of San Jose indicated that they thought it would be best for the City to participate at a technical level and that it was staff's intent to become actively involved in this effort.

Mayor Kennedy said that there seems to be some division of opinion between the local San Martin Planning Advisory Committee and some of the Santa Clara County policy makers. He requested that the City reach out to the San Martin Planning Committee, if possible.

Council Member Sellers felt that it made sense to incorporate the San Martin Planning Advisory Committee and that staff employ the Council, if necessary. He felt that in the next 50 years, San Martin would be incorporated. Should this be the case, the City would end up in a situation where it wants to establish a precedent. He encouraged staff to work with the San Martin Advisory Committee.

Mayor Kennedy requested that the Citizen Advisory Committee include residents from surrounding

communities.

Mayor Kennedy opened this item to public comment. No comments were offered.

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council, on a 4-0 vote with Mayor Pro Tempore Carr absent, **Authorized** the City Manager to Initiate the Consultant Selection Process for Undertaking an Urban Limit Line (Greenbelt) Study Consistent with the Work Program.*

Redevelopment Agency Action

OTHER BUSINESS:

11. PRESENTATION: AQUATICS COMPLEX MASTER PLAN, SCHEDULE, PHASING PROPOSAL AND SUB-COMMITTEE APPROVAL

Recreation and Community Services Manager Spier presented the staff report on the aquatics complex master plan. She indicated that David Petta with ELS was in attendance to present the Council with an overview of the issues associated with this project. She indicated that staff would like the Council to discuss the master plan concept and approve one of the concepts being presented. Staff would also like to discuss the schedule of the completion. She requested that the Council select a Council design subcommittee similar to the success of the Library design subcommittee who were able to move the design along on a consistent basis.

David Petta, ELS, addressed how the aquatics facility would satisfy the competitive and recreational programs. He displayed aquatics facilities designed by ELS located in San Luis Obispo (Cal Poly), Pleasanton, Stanford and Berkeley. He indicated that sun, shade, and wind are key issues to an aquatics facility. He addressed energy saving features that are proposed to be incorporated in the aquatics center. He indicated that he would work with staff to look at all circulation routes as well as visibility to the site, noting that hotels and parcels shield the site somewhat. He indicated that the community workshop held approximately three weeks ago, it became apparent that connection to the sports complex is one of the key features of the facility. He was originally concerned with noise from the freeway but felt that it was less of concern as he visited the site and became familiar with it. He said that there is an issue about noise to the surrounding residences and that there may be an issue of noise from the facility toward the hotels. Therefore, acoustic of the site would need to be taken into consideration. He said that there are prevailing winds from the northwest and that the City would need to deal with the wind to make the facility truly useable for all activities. He said that close attention should be given with regards to acoustic, lighting, circulation and parking needs.

Mr. Petta indicated that he developed two concepts based on the input received at the community workshop and identified the key features for each design. He said that the idea that seemed to work best is to place the clubhouse building in a location where it can serve both the fields and the pools and that access be from Barrett Avenue. He identified phasing lines for the aquatics center. He indicated that the alternate scheme works similarly and that it rotates the pool slightly. He indicated that the permanent bleachers located at the competitive pool area face, the north in order to avoid

glare and looking at the sun.

Ms. Spier informed the Council that scheme 2 is the preferred scheme for the architect and staff. She said that in previous discussions, two key points were identified: 1) it was vital for the clubhouse to serve the sports complex site as well as the aquatics site and 2) that Barrett Avenue be closed. She informed the Council that ELS is suggesting that a wind study be performed. Staff would need to look at how a wind study would impact the schedule and how it would impact the fees. She indicated that two concepts were derived from general discussion and the use of the eight acres that includes a future expansion. She informed the Council that the size of the clubhouse was discussed at being 15,000 square feet at final build out. It is proposed that construction be divided with a portion of the clubhouse being built in the first phase and that the second portion be the team locker room that supports the competitive side.

Mr. Petta informed the Council that citizens supported scheme 1 at the Taste of Morgan Hill. He indicated that his preference was for scheme 2 as it separates nicely into a recreation facility and a competitive facility from different ends as opposed to scheme 1 which brings both the competitive and recreational components to the clubhouse. In scheme 1, the second pool which may be used by small children, is somewhat remote from the clubhouse. Additionally, you have the competitive pool no co mingling of uses. He said that any windscreen would be difficult to shelter the pool and that you would have bleachers facing east and west, where people would be looking into the sun. The sun would be reflecting off the water, making it difficult to see swimmers because of the glare in the water. Scheme 2 has spectators looking north in the permanent bleachers. He said that both schemes have the option of placing temporary bleachers in the center to create a stadium effect. This may mean that during the course of the year, you may have a wide-open space in the middle of the facility, trading this off with a scheme that would have all of the seating at the perimeter and tightening up the pools. He felt that both schemes divide nicely into phase 2.

Chairman Kennedy stated that an objection he had to scheme 1 is that the bleachers block the views of the pool from Condit Road and from the entrance. What an individual would see is the back of the bleachers and not the waterslide, water features, or individuals having a fun time.

Mr. Petta suggested that the Agency's approval be broad enough as there is still a lot to learn about the site. It is his hope that the Agency does not tie down one scheme over the other because both schemes are compatible. As more is learned, he felt that they may blend together in such a way that cannot be foreseen this evening.

Chairman Kennedy opened the floor to public comment.

Robert Benich stated that he was pleased that ESL architects, in their statement, have specifically stated that conservation of resources and protection of the environment through effective planning and design of public facilities are goals as well as the design of a financially self sufficient community facility. He was also pleased to see, in the presentation, that ELS is proposing to use some type of energy conservation method in the buildings. However, he did not see anything having to do with the solar heating of the swimming pools. He felt that this has a direct financial impact on the operation of the facility for years to come as well as environmentally friendly and not utilizing

scarce resources. He recommended that the City proceed with a wind study, indicating that winds in Morgan Hill are experienced in the afternoon. Therefore, it is an afternoon wind factor that needs to be addressed.

Martin Kapetanovic extended her appreciation to staff for the wonderful job they did at the Taste of Morgan Hill. Staff allowed her to be a part of the aquatics center display as members of the Aquatics Foundation Inc. She indicated that she explained the design to individuals as best that she could. She stated that she preferred scheme 1 because the location of the recreational pool with the green area would be a better vision for parents to see both pools versus to look through one pool to see the other pool. She indicated that the fundraising bricks were in display at the Taste of Morgan Hill and that over 250 applications for the fundraising program were handed out. She stated that individuals were excited about the fundraising concept and that she is hoping to receive all of the applications back with checks.

John Rick also thanked city staff and that he enjoyed working with staff at the Taste of Morgan Hill. He indicated that the smaller brick would raise \$125 and that the larger brick would raise \$250, and an additional \$100 for a custom logo.

Chairman Kennedy indicated that the Agency requested the architect include a location in the design where the bricks would be placed.

Josh Valdez addressed the diving platform and inquired whether the platform would be 100% platform or whether it would be designed using a spring board. He stated his preference for a spring board.

No further comments were offered.

Mr. Petta indicated that this project would be the most ambitious in terms of use of solar panels statewide for swimming pool projects. He agreed that winds are worse in the afternoon and that he has submitted two consultants names who can study the wind. He indicated that a consultant from El Cerritos has conducted several wind studies, one of which was the Shoreline Amphitheater which needed a big area free of wind. He stated that he could squeeze the facility slightly to the south and that one benefit of this would be to allow Barrett Avenue to be closed or to reopen 3-5 years from now, if necessary. He said that this project could be uncoupled from problems that may be inherent in closing Barrett Avenue because there is enough space on site to do so. He said that there would be green space immediately adjacent to both pools and that green can be introduced in the middle of the pool areas. Also, there will be plenty of diving opportunities of all kinds.

Chairman Kennedy indicated that he would like to include public art in this project.

Mr. Petta said that are other opportunities to include public art and that art could be tied to into the energy savings aspect. Public art could also be tied to the issue of wind, sun or shade. If the City is saving a place for art, he recommended that a percentage of funds be set aside or so that it does not get used for other things. The City could also fund art by alternative means. He indicated that art can be a useable element or a decorative element. He needs to know how much art is to be

included in the schematic design.

Chairman Kennedy said that it is his belief that the Agency would support some expenditure for art whether it is handled by contributions or part of the budget for this project.

Agency Member Tate agreed that art needs to be incorporated in the budget, noting that Agency Member Sellers has requested that this issue be agendaized for discussion. It was his belief that the Agency needs to have the discussion of the two different approaches to fund public art.

Vice-chairperson Chang stated that she expected the architect to return with an artistic design. If the building is beautifully designed, it may be a work of art itself.

Agency Member Tate stated that he was comfortable with Mr. Petta's comments regarding the pros and cons for the two schemes. He was convinced that Mr. Petta would move forward based on comments expressed this evening. He did not know if the Agency needs to give too much direction on scheme 1 versus scheme 2. He indicated that he would like to give direction on the schedule.

Agency Member Sellers agreed that significant latitude needs to be given in merging the design. He expressed concern with the wind as there are certain times of the year that winds become significant through this area. He was pleased to hear that the wind would be addressed, even if it incorporates angling buildings or some other design alternative. He concurred that as a parent, your first concern is where you can sit in order to see children swimming. He wanted to make sure that the design takes into account that parents need to see their children using different pools. He inquired what was being done to limit access to the lap pool and the competitive pool in order to prevent accidents. He said that the Agency has had the opportunity to visit other recreational centers and recommended that Mr. Petta integrate art to some degree such as designing a wall that might have a playful look instead of being a flat wall. He stated that the Agency would find ways to incorporate art opportunities. He said that many elements used by children are artistic elements such as water slides, overhead buckets, and colors and that these should be part of the art.

Mr. Petta said that if a barrier is installed, it could be one that could be open on some days and closed on other days to create a solid barrier to prevent cross use of pools and to protect both uses from accidents. He felt that it would be better to have a policy on art and stick to it.

Vice-chairperson Chang inquired how many months out of the year would the pools be fully utilized when they are outside pools and not heated? Mr. Petta responded that the recreational pool would be used approximately from Memorial Day to Labor Day. He noted that the City has engaged the Sports Management Group to help staff with the business aspect of the facility. This group would be able to pin point the months of use together with fee schedules and rates to be expected. He indicated that the recreational pool would be heated.

Ms. Spier said that it is staff's assumption today that the recreational leisure pool would be open from May to September and that the 50-meter pool would be open year round, consistent with the Haroldson study and the financial analysis. She indicated that solar heating was not part of the study and that incorporation of solar heating should help the financial aspect in the long run.

Chairman Kennedy agreed that the City needs to leave flexibility open on both schemes 1 and 2. As Mr. Petta proceeds with the schematic design, he stated that he would favor scheme 2 as long as there is adequate green space for families to get around the recreational pool. He felt that it was important to see the pool from Condit Road and the hotel areas versus the backside of a grandstand.

Ms. Spier clarified that staff did not provide the public with the pros and cons associated with each scheme at the Taste of Morgan Hill. She indicated that enough information was not received from the public about the design and that staff did not understand why the public preferred scheme 1.

Ms. Spier stated that staff is very conscious of the schedule and how important it is to the community. Staff understands that it is the Aquatics Foundation, Inc.'s goal to have the aquatics center open in 2004. In order to have a grand opening in July 2002, staff needs buy in from the City Council, all boards, commissioners, and committees as well as staff. She indicated that a comfortable grand opening day would be April 2005. This timeframe would provide the City with plenty of review time, opportunity for discussion, value engineering and review of a construction document, pulling the community in at one point of the process. April 2005 would allow the City to get staff on board, and train the lifeguards and facility operator and allow for a soft opening of the center with a grand opening to be held in May 2005. To back the schedule to July 2004 would require a lot of buy in. She indicated that she met with the Agency subcommittee members Chairperson Kennedy and Agency Member Carr to discuss the schedule. She said that in order to meet the July 2004 schedule, staff would have to start work on the Negative Declaration for this project. She indicated that staff is currently speaking with a consultant to bring someone on board to start the environmental review of the project and that staff is writing the project description. Staff needs to have the environmental analysis completed by November 18 and that the Council has to meet on December 18 to approve the Environmental Impact Report (EIR). Another critical milestone to this project is the LAFCO process, indicating that this process would be coordinated with the EIR in order to take the project to LAFCO in February or April 2003. She said that there are trade offs to the schedule. She said that decisions about public art need to be made quickly. If the Agency is considering adding items to the project, the timeframe for additions would be the next 30 days or the art would have to wait. If the schedule is compressed to a 2004 target, staff would need to start the process immediately, limiting the number of community workshops. Staff would need authorization for loan documents. She stated that decisions would be made based on assumptions. Staff would recommend a combination of community workshops with regular scheduled Parks & Recreation Commission meetings and Architectural Review Board meetings, maybe combining these two meetings in order to keep the schedule going. Staff would need authorization to proceed with the design documents prior to the completion of the EIR. There is also the chance that staff would not be able to conduct value engineering and that solar heating may be another aspect of the project that cost may be a factor. She indicated that there are risks associated to expediting the project. She said that it would take 12 months to construct the project with a minimum of five months to design the project with limited input. A 2004 schedule can be done with a certain amount of risks involved to move the project forward.

Chairman Kennedy indicated that he and Agency Member Carr met to discuss the schedule with the consultant last week and met with Ms. Spier and Mr. Petta today regarding the schedule. He indicated that the community wants this facility built as quickly as possible. However, the Agency

recognizes that it has to perform its due diligence and make sure that mistakes are not made. In review of the schedule, there were several issues that came up, one being that there was not adequate time for internal review of the design drawings before they went out to bid. This would result in the addition of a couple of weeks to complete the internal review. He stated that there may be other areas where the City may be able to save time. He recommended that the Agency appoint an Agency subcommittee who would work directly with the architect as was done with the Library subcommittee. He would recommend that he and Agency Member Carr continue on this committee and that they work directly with the architect in order to keep the project moving forward. He noted that staff has allowed five weeks for the plan check process that is typical of a construction project. He said that private sector engineers and contractors pay to bring on board outside consulting plan checkers to help speed up this process. He recommended that the City hire an outside plan checker to speed up the plan check review. This action could save the City 2-3 weeks and would offset the additional three weeks for design review. He felt that there were other areas in the schedule where the City might be able to save time early on. Instead of having dedicated public workshops, the City can use the Parks and Recreation Commission as one of the public workshops and use the ARB meeting as another opportunity for public input. He noted that there would be presentations to the Council/Agency all through the process.

Mayor Kennedy stated that it would be ideal to have the facility open and running by Memorial Day weekend 2004. He said that he would like to give this aggressive schedule challenge to city staff. He would like to see construction completed 5-6 weeks earlier than currently planned. He noted that there is a 10-month construction time schedule based on input from contractors. As the Council/Agency gets into more detail, there may be ways to bring the facility on line earlier. Bringing the facility on line earlier would cut down on operating costs because the facility would be on line earlier in the season generating revenue from the recreational pool. He recommended that the Agency give staff and the consultant a target goal of bringing the facility on line by Memorial Day 2004.

Chairman Kennedy said that if you look at the schedule, construction does not start until July 2003. He felt that the City was missing a lot of the summer construction window and that this may cause some additional delays. He recommended that the construction start day be moved up earlier in the dry season. He further recommended that a fast track schedule be utilized where the excavation, foundation, underground work, and site work are bid out separately. He acknowledged that there may be some problems in doing so because there are generally two different contractors performing the excavation for the pool and excavations for other site work. He recommended that the Agency request that staff and the consultant take a look at the schedule with the goal of bringing the operation to Memorial Day 2004.

Agency Member Tate stated that by committing to a Memorial Day 2004 opening, the Council/Agency would be setting an unrealistic expectation with the public who want the facility opened immediately. However, to set this date as an expectation given everything that has been presented, he has learned that public facilities are built later and would take longer to be built than expected. This would result in increased costs. He stated his support of a grand opening of Memorial Day 2004 but that the City not set an expectation to the public that this can be done as this is an unrealistic schedule. He noted that staff pointed out that the Council/Agency would not have

an opportunity to perform value engineering work. He noted that there were several delays with the community center and that the Council/Agency indicated that they would fix these problems with future projects. He felt that fast tracking the project would result in risks to the City. He recommended that a completion date be identified that is doable, noting that staff has indicated that a realistic time schedule would be April 2005. He recommended that this date be given as project completion expectation and that the City reward itself if the project is completed at an earlier date.

Chairman Kennedy felt that value engineering should be done as part of the design process and not as a separate step. With respect to the expectation raised by Agency Member Tate, it was his belief that the Council/Agency should give staff and the consultant an aggressive target date and see if it can be done. Staff and the consultant can return with a proposal and that the Council/Agency can determine whether this is an acceptable risk to take. He noted that this is a preliminary schedule and felt that there was additional flushing out of the schedule to be conducted. He recommended that the Council/Agency ask staff and the consultant to take a closer look at the schedule to see if there is a way to bring the project in by his recommended target date.

Vice-chairperson Chang stated that she would be pleased if the project was completed by November 2004.

Agency Member Sellers appreciated Chairman Kennedy's effort and felt that it would make everyone work harder. He said that the Council/Agency learned a lot of lessons from the Community Center project, one being that the City cannot anticipate a lot of things at this point. He felt that the City needs to account for these as they come up. Also, the Council/Agency needs to understand its limited ability to digest too much information at any one time. He would like to make sure that the Council/Agency do both as the project proceeds. He said that this project is a more straightforward project than the community center and does not have the varied elements. Also, the Council/Agency's experience has enabled it to make the significant and right decisions. He felt that the Council/Agency can do this but that it has to be prepared to do so. He acknowledged that the City may not have the public input that it might have had this been a stand-alone project. He noted that the City received significant input with the Visioning process and received other input in other venues such as the Taste of Morgan Hill or from the aquatics group itself. He did not believe that anyone interested in the project would be concerned that only one or two public sessions would be held as long as they are provided with the ability to provide input.

Agency Member Sellers said that he would agree to spending additional funds to retain the services of an outside plan checker. He said that it was important to him that the integrity of the project comes before the schedule. He felt that the Agency needs to be prepared to deal with the issues that come up. He would agree to do whatever it takes to meet the aggressive schedule but that as the City proceeds that it is not setting unreasonable expectations on this project. If the project is opened in July, he felt that it would be incumbent upon the Agency to find the operational funds to make up for the lost revenues that may occur. Should delay occur, the Council/Agency would need to determine how it would come up with operational funds and integrate them into next year's budget.

Chairman Kennedy felt that if the project could open two to three weeks sooner, the revenue to be generated would pay for the cost of the outside plan checker.

Executive Director Tewes noted that the Agency has given staff goals for the public facilities to ensure that three things are accomplished at the same time: 1) bring projects on schedule, 2) at budget, and 3) meet the program objectives. If the Agency votes to challenge staff to the more aggressive schedule identified by Chairman Kennedy, he wanted the Agency to be aware that the July 2004 schedule is the biggest challenge staff has set for itself on a public facility. He said that it would be helpful if the Council/Agency took formal action to identify this project as the number one priority so that staff can advise the ARB, Parks and Recreation Commission, staff and other applicants that may have to stand in line that this project comes first. He felt that this public statement would be important for the City to have a fighting chance of meeting this aggressive schedule.

Agency Member Tate noted that the City has other on going projects taking place along with this project that would impact the schedule from a manpower deployment stand point. He stated that this is not the number one project to him, noting that the City is hoping to build a library. He stated that he was not willing to commit to any schedule other than the schedule that staff is comfortable with. He said that all the reasons he has heard this evening leads him to set April 2005 as the expected completion date, one that the City plans to beat as much as possible.

Chairman Kennedy indicated that he spoke with Agency Member Carr today who expressed that it would be his goal to speed up the schedule as much as possible/reasonable.

Vice-chairperson Chang stated that she did not realize that the schedule was becoming an issue. She noted that the City does not know if it has funding for the library and that this project is ready to proceed. She supported the July 2004 target schedule as long the integrity of the project is not jeopardized. She would support an Agency subcommittee working with staff and the consultant to make this happen at no additional cost to the City.

Agency Member Tate did not believe that the 2004 was a realistic schedule.

Chairman Kennedy noted that staff pointed out that there are some risks associated with the July 2004 schedule. The question was whether these were acceptable risks. In his discussions with Agency Member Carr today, he used the term "acceptable risks." He felt that there were acceptable risks to take. He agreed that this project is not like the community center project as pools like this are built all the time and that the cultural center included innovative and creative ideas that were designed into the facility. He noted that this is not the case with this project.

Vice-chairwoman Chang stated that she would agree to make this project as the first priority as no other projects are in the works at this time. She noted that this is a \$4-5 million project that has been funded. If the subcommittee is stating that this is workable, she would be willing to make this project her first priority.

Agency Member Sellers stated that he would agree to make this project a top priority even if it means that a house would be constructed a month later than it would otherwise. If it means that the ARB and the Planning Commission have to meet an extra time or meet on an off day to get the work done, he would like to send out the message that this is the Council/Agency's intent. He requested that

staff be straight forward with the Council/Agency and indicate that the integrity of the project would not allow completion by summer 2004. He recommended that citizens be advised that the aquatics center would be open in April 2005 but that the City is doing everything that it can to open the facility in the summer of 2004. He would support stating publicly that this is the top priority project and that he did not believe that it would impinge on other projects coming up. If it turns out that the City gets funding for the library, the Council may need to revisit priorities. He felt that it was correct for the City to proceed under the schedule but that the Council/Agency needs to be prepared to make changes as the project moves forward. He concurred with selecting Agency Member Carr and Chairman Kennedy to serve on the design subcommittee but that want to make sure that the Agency, as a whole, is signing off on some of the preliminary design phases. He would like the Agency unified in the design that is best for the aquatics center.

Chairman Kennedy stated that it would be the intent of the Agency subcommittee to have a unified consensus on the design. He proposed that the subcommittee go to the architects place of business in order to have working meetings to keep the project moving.

Ms. Spier noted that the ELS is under contract to design phase 1. If ELS was to enter into contract tomorrow for phases 1-3, the cost would be \$1.2 million for the projection construction cost for a \$13 million project. Should staff need to negotiate a portion of the contract with ELS, the City would be looking at a delay. In response to Agency Member Sellers question, she said that there would be no benefits in designing phases II and III with the exception of cost savings in design.

Chairman Kennedy said that one of the issues raised by the Aquatic Center Foundation was to have an idea of what the additional phases would cost so that they can raise money for these phases. It is their hope to raise additional funds for design phases II and III. It was indicated that the current contract amount is approximately \$700,000 for phase I.

Agency Member Sellers felt that it would be helpful to know what it would cost to design phases II and III. Should money be made from this project, he felt that there may be some consideration at a future Agency meeting to put some of the revenues toward subsequent phases.

Chairman Kennedy stated that should the Aquatics Center Foundation raise sufficient funds to proceed with phases II and III, he inquired what would be included with these phases?

Ms. Spier indicated that Phase II includes the rest of the pools and phase III would complete the amenities. She indicated that staff would need to prepare a feasibility study and go back and look at the numbers as there was not a lot of cost recovery. It would take the recreation pool to cover the cost of the competition site unless the Aquatics Foundation is successful in some of their fundraising efforts. She indicated that the design costs for phases II and III would be approximately \$380,000 and \$300,000 and that construction costs would be significant above these amounts.

Executive Director Tewes indicated that staff recognizes that the City has many priorities and that it has customers who have expectations as well. It would not be staff's intent to create problems where none need be created. However, there will be occasions in which something has to give. He said that the priority direction from the Agency would be helpful to staff.

Vice-chairwoman Chang said that if staff is talking about the indoor community center or the library, she said that this is the number one public project and that other projects have to wait. She stated that she has confidence in staff in their ability to hire additional staff within cost, to manage the project to the point that the public is not interfered with too much.

Agency Member Sellers said that the priority status of this project will be a challenge when complaints are received and apologies are given based on the Council/Agency policy decision. He did not believe that it would be fair to staff unless the Council/Agency is willing to share some of the burden on its policy decision.

Chairman Kennedy felt that next to the community and cultural center, this would be the City's next highest priority project.

Action: *On a motion by Vice-chairwoman Chang, seconded by Agency Member Sellers, the Agency, on a 3-1 vote with Agency Member Tate voting no and Agency Member Carr absent, adopted the aggressive July 2004 schedule, making this the number 1 priority project.*

Action: *Agency Member Sellers made a motion, seconded by Agency Member Sellers to appoint Chairman Kennedy and Agency Member Carr to the design subcommittee. The motion carried 4-0 with Agency Member Carr absent.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

Council Member Sellers requested that staff schedule a broader discussion on the City Council's approach to public arts funding (General Plan Goal 12 H) within the next few months.

Council Member Chang inquired when the Council would be conducting a workshop on its goals? City Manager Tewes indicated that the Council typically conducts its goal setting workshops in January but that a specific date has not been set.

Council Member Chang noted the closure of the San Jose Medical Group, making the medical service issue even more critical. She requested that the City Manager report back on medical services.

City Manager Tewes stated that the Morgan Hill Community Health Foundation is preparing a plan on how to achieve the Council's medical services objectives. He said that it is their expectation to present the plan to the Council in November.

Council Member Chang expressed concern that there is no urgent care facility in Morgan Hill and that doctors are leaving the community. She requested an update on the City's current medical situation.

ADJOURN TO CLOSED SESSION

Mayor/Chairman Kennedy opened the closed session to public comment. No comments being offered, he adjourned the meeting to closed session at 9:38 p.m.

RECONVENE

Mayor/Chairperson Kennedy reconvened the meeting at 10:25 p.m.

CLOSED SESSION ANNOUNCEMENT

Agency Counsel/City Attorney Leichter announced that no reportable action was taken on the above listed closed session items.

ADJOURNMENT

There being no further business, Mayor/Chairperson Kennedy adjourned the meeting at 10:26 p.m.

MINUTES RECORDED AND PREPARED BY

IRMA TORREZ, City Clerk/Agency Secretary